

COLORADO STATE BOARD OF PHARMACY

September 16, 2010

Minutes

The Colorado State Board of Pharmacy meeting was convened by Vice President Mary K. Arceneaux, R.Ph., at approximately 8:30 a.m. on Thursday, September 16, 2010 at 1560 Broadway, Conference Room 110 D, Denver, CO 80202. Notice of this meeting was given in accordance with Division of Registrations Policy Number 80-17.

Board members attending were: Mary K. Arceneaux, R.Ph., E. Katherine Edelblut, R.Ph., Leonard L. Hierath, P.E., Paul Limberis, R.Ph., Luis A. Rivera-Lleras, R.Ph.; and Averil Strand, R.N.

Staff members attending were Wendy Anderson, R.Ph., Program Director; Chief Inspector, Chris Gassen, R.Ph.; Susan Martin, R.Ph., Inspector; Mark O'Neill, R.Ph., Inspector; and Lisa Cornett, R.Ph., Inspector; and Catie Granquist, Complaint and Licensing Specialist. Also present were Jo Kaye, Assistant Attorney General and Jack Wesoky, Senior Assistant Attorney General, to advise the Board.

APPROVAL OF MINUTES

The Board approved the minutes from the July 15, 2010, July 20, 2010, and August 19, 2010 meetings as amended.

ADDITIONS TO THE AGENDA

A revised agenda was made available to the public at this meeting to reflect any additions.

APPEARANCES

Susan Miller, Healthcare Section Director for the Division of Registrations, introduced Richard Morales to the Board. Mr. Morales will assume the duty of the Division's Healthcare Section Director effective November 1, 2010.

Rebecca Heck, Director of the Pharmacy Peer Health Assistance Diversion Program for Peer Assistance Services, Inc., reviewed with the Board the Diversion Program's 4th Quarterly Report.

HEARINGS

The Board conducted a public hearing concerning additions or amendments to regulations 5.00.55(b)(3), 21.11.10 and 21.21.70 (3 CCR, 719-1). The hearing began at 9:30 a.m. and was held in Conference Room 110 D at 1560 Broadway, Denver, Colorado 80202. No written comment or oral testimony was provided by the public for the Board to review. The Board discussed the proposed changes to the rules, then adopted regulations 5.00.55(b)(3), 21.11.10 and 21.21.70 as proposed.

REPORTS

President's Remarks

None.

Program Director's Report

Ms. Anderson reviewed with the Board a revised standing Board Procedural Order Regarding Review of Initial Decisions as developed by the Division of Registrations. The Board approved of the procedural order along with any nonsubstantive changes to it that may occur from time to time.

Ms. Anderson presented the Board with a summary of the 2010 National Association of Boards of Pharmacy (NABP) Annual Meeting. The Board noted the information.

Ms. Anderson confirmed that no Board members had been selected to NABP Committees or Task Forces which would require out of state travel.

Ms. Anderson reviewed a policy from Peer Assistance Services detailing how it handles issues surrounding drug testing. The Board noted the information.

Ms. Anderson also presented the Board with a September 12, 2010 article from the Telluride Daily Planet. Ms. Arceneaux recused. The article indicates that Robert Governski (RPH 14225) could potentially be practicing as a pharmacist at Sunshine Pharmacy, Inc. (PDO 118-1) and The Apothecary Shoppe (PDO 93-2) while he is serving an active Stipulation for Interim Cessation of Practice with the Board. After due consideration of the available information, the Board requested that both prescription drug outlets provide a response to the article as well as a written statement to the Board within 30 days explaining what Governski's duties currently are and to affirm that Governski neither has nor will practice as a pharmacist during the time that Governski's Stipulation for Interim Cessation of Practice remains in effect.

Ms. Anderson discussed with the Board the new fees set by the Division of Registrations for the renewal of all business registrations for the 2010-2012 registration renewal period. She indicated that business renewal was underway. The Board noted the information.

Colorado Pharmacists Society (CPS) – Paul Limberis, RPh

The CPS Annual Fall Meeting will be October 14-16, 2010 at the Doubletree Hotel, Denver Technological Center. Twelve hours of continuing education (CE) will be offered. Highlights will include keynote speaker Hannah Vanderpool, Director of Affiliate Relations with the American Society of Health-System Pharmacists and presentations focused in the areas of cardiology, nephrology, infectious disease, improving patient compliance, medication reconciliation, diabetes and pharmacy law. A preceptor training module sponsored by the University of Colorado Denver School of Pharmacy and the Regis School of Pharmacy will also be offered. CPS will be collaborating with the Drug Enforcement Administration (DEA) in promoting the National Drug Take Back Initiative, September 25, 2010 from 10 AM to 2 PM. The national "Take-Back Day" will allow people who want to get rid of unwanted prescription drugs to comply with the law. Seventy-one locations in Colorado have been established.

Governor's Expert Emergency Epidemic Response Committee (GEEERC) – Paul Limberis, RPh

No report was presented. The next scheduled meeting of the GEEERC is scheduled for October 7, 2010.

Intern & School Relations – Jeannine Dickerhofe, RPh

Dr. Catherine Jarvis, Assistant Dean of the University of Colorado Denver School of Pharmacy, reported that the pharmacy school has received a 6-year reaccreditation status from the Accreditation Council for Pharmacy Education (ACPE) Board. Dr. Jarvis further reported that 159 new students have begun their first year of pharmacy school, and that the school will begin the interviewing and selection process for the 2011 incoming class in October 2010.

No report was available from the Regis University School of Pharmacy.

Legislation - Jeannine Dickerhofe, RPh.

Paul Limberis reported that the Board's website includes a legislative update which provides details of when the new legislation went into effect and information about the corresponding rules promulgated as a result of the legislation. The rules associated with SB 10-117, which allows pharmacists to prescribe over-the-counter medications to Medicaid patients, still needs to be promulgated by the Department of Health Care Policy and Financing.

The first meeting of the Colorado Pharmacy Coalition (CPC) after its summer recess will be Wednesday, September 29, 2010. The focus of the coalition will be the 2012 Pharmacy Sunset Review. Proposed changes to the current pharmacy law will be presented and discussed, and a list of these changes will be compiled for the sunset review process. The CPC will meet the last Wednesday of every month through the rest of this year as well as the entire 2011 legislative session unless otherwise notified.

Inspectors

Animal Pharmacy & Supply, Unregistered

The Board reviewed information which indicates that Animal Pharmacy & Supply may be procuring prescription drugs by authority of an individual veterinarian's license, then potentially distributing or dispensing them without a Board registration to other veterinarian's patients.

After due consideration of available information, the Board directed its staff to send correspondence to Animal Pharmacy & Supply and to the veterinarian directing both to discontinue this practice until either a prescription drug wholesaler or prescription drug outlet registration has been issued by the Board.

Jorgensen Laboratories, Inc., Unregistered

The Board reviewed information which indicates that Jorgensen Laboratories, Inc. may be procuring prescription drugs by authority of an individual veterinarian's license, then potentially distributing them without a Board registration to other entities. The Board further noted that Jorgensen Laboratories, Inc. recently submitted an application for a prescription drug wholesaler registration.

After due consideration of available information, the Board directed its staff to, upon successful completion of all registration requirements, issue Jorgensen Laboratories, Inc. a prescription drug wholesaler registration. However, the Board further directed its staff to inform Jorgensen Laboratories, Inc. that, once a Board-issued wholesaler registration is issued, the registration must be used to obtain prescription drugs for the purpose of further distribution and that an individual veterinarian license cannot be used to obtain prescription drugs for the purpose of further distribution.

Loveland Veterinary (Vet) Supply, Inc., Unregistered

The Board reviewed information which indicates that Loveland Veterinary Supply, Inc. may be procuring prescription drugs by authority of an individual veterinarian's license, then potentially distributing or dispensing them without a Board registration to other veterinarian's patients.

After due consideration of available information, the Board directed its staff to send correspondence to Loveland Veterinary Supply, Inc. and to the veterinarian directing both to discontinue this practice until either a prescription drug wholesaler or prescription drug outlet registration has been issued by the Board.

Todd's Harvard Park Pharmacy, Inc., PDO 200

The Board reviewed information which indicates that Todd's Harvard Park Pharmacy, Inc. appears to be operating under multiples names (including ThrivingPets.com and Vet Pet Solutions) as well as at more than one suite number within the same location.

After careful consideration of available information, the Board directed its staff to send correspondence to Todd's Harvard Park Pharmacy, Inc. reminding it to operate and advertise as a prescription drug outlet only under its current Board-registered name and location and to comply with all applicable state and federal laws and regulations pertaining to drugs.

Dr. Michael S. Herman, D.V.M.

The Board reviewed a Cease and Desist Order that was issued by its staff pursuant to Board Policy 30-5 to Dr. Herman effective August 18, 2010 for the unlawful distribution of prescription drugs without a prescription drug wholesaler registration issued by the Board.

After careful consideration of available information, the Board directed its staff to refer the matter to the Colorado State Board of Veterinary Medicine for its review.

OLD BUSINESS

Complaints

Wendell A. Almeida, RPH 11053 and Case 2010-3845

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue Mr. Almeida an Order for Evaluation Pursuant to CRS 12-22-605(3).

Robert B. Boardman, RPH 8435, Case 2010-3840 and Case 2010-3851

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to issue an order terminating Mr. Boardman's summary suspension.

Michael A. Simons, RPH 11302 and Case 2011-0122

Ms. Arceneaux recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Stipulations

Ann M. Alexander, RPH 17570

The Board reviewed an Agenda Memorandum regarding Ms. Alexanders's request to enter into a cease practice agreement with the Board.

The Board voted unanimously to refer the case to Executive Session for legal advice.

Sharon K. Sanderson, RPH 13495

Ms. Arceneaux recused.

The Board reviewed an Agenda Memorandum regarding Ms. Sanderson's request to modify the terms of her stipulation and final agency order.

The Board voted unanimously to refer the case to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to deny the request.

Cameron Stryker, RPH 14159

The Board reviewed an Agenda Memorandum regarding Mr. Stryker's request to extend the length of time currently ordered in his stipulation and final agency order in order to complete and pass the Professional and Problem Based Ethics Course ("ProBE").

After due consideration of the available information, the Board voted unanimously to allow Mr. Stryker an additional year to complete the ProBE.

Walgreen Pharmacy # 07138, PDO 658

The Board reviewed information regarding this pharmacy's request to be released from the terms of its stipulation and final agency order.

After due consideration of available information, the Board voted unanimously to release Walgreen Pharmacy # 07138 from the terms of its stipulation and final agency order.

LICENSING

RSF Pharmaceuticals, Inc., Unregistered

The Board reviewed a request from RSF Pharmaceuticals, Inc. to withdraw its nonresident prescription drug outlet registration.

After due consideration of available information, the Board voted unanimously to allow the applicant to withdraw its application.

NEW BUSINESS

Complaints

Erika E. Alexander, RPH 17531 2010-2920

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Dennis R. Bledsoe, RPH 10791 2011-0310

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Jennifer L. Branum, RPH 18104 2010-4456

The Board voted unanimously to dismiss this case as being without merit.

Clearspring Pharmacy, PDO 79-1 2010-4100

Mr. Hierath recused.

The Board voted unanimously to dismiss the case as being without merit. The Board directed its staff, however, to send a letter of guidance to the respondent.

Colorado Animal Health, Unregistered 2011-0305

The Board voted unanimously to issue a Cease and Desist Orders to Colorado Animal Health for the unregistered distribution and dispensing of prescription drugs. In addition, the Board voted unanimously to refer the case to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to issue a letter of guidance to the veterinarian whose license was potentially used to procure prescription drugs for Colorado Animal Health.

Christa A. Dierking, RPH 16816 **2010-4471**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

King Soopers Pharmacy # 24, PDO 119-3 **2010-4472**
Ms. Arceneaux recused.

The Board voted unanimously to dismiss this case as being without merit.

King Soopers Pharmacy # 28, PDO 9-11 **2010-4473**
Ms. Arceneaux recused.

The Board voted unanimously to dismiss this case as being without merit.

Sonya M. Fraser-Feero, RPH 16299 **2010-4474**
Ms. Arceneaux recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Sharon K. Sanderson, RPH 13495 **2011-0309**
Ms. Arceneaux recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Summit View Pharmacy, PDO 501 **2010-4458**
The Board voted unanimously to dismiss this case as being without merit.

Wal-Mart Pharmacy # 10-2125, PDO 73-35 **2010-4528**
The Board voted unanimously to dismiss this case as being without merit.

Omnicare of Golden, PDO 25-3 **2010-4219**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board, however, directed its staff to issue Omnicare of Golden a letter of guidance.

Jennifer T. Friend, RPH 16553 **2010-3389**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case as being without merit.

Walgreen Pharmacy # 6513, PDO 7-29

2010-4171

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Walgreen Pharmacy # 3500, PDO 405

2010-4182

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Walgreen Pharmacy # 4307, PDO 7-23

2010-4184

The Board voted unanimously to dismiss the case as being without merit.

LICENSING/REGISTRATION

Ryan LeBlanc, Pharmacist Applicant

The Board reviewed an Agenda Memorandum from Ms. Granquist and voted unanimously to refer this matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to deny the application. Grounds for denial were noted to include, but were not be limited to, CRS 12-22-125(1)(g).

Kit Frisk, Pharmacy Intern Applicant

The Board reviewed an Agenda Memorandum and voted unanimously to refer this matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to deny the application. Grounds for denial were noted to include, but were not be limited to, CRS 12-22-125(1)(c), (d), and (k).

Edward Marcus, Pharmacy Intern Applicant

The Board reviewed an Agenda Memorandum along with all supplied evidence of rehabilitation and voted unanimously to refer this matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to deny the application. Grounds for denial were noted to include, but were not be limited to, CRS 12-22-125(1)(b), (c), (d), and (k).

MISCELLANEOUS

Correspondence, etc.

Antigen Laboratories, Inc., WHO 7585

The Board reviewed an Agenda Memorandum and, after due consideration of available information, voted unanimously to issue Antigen Laboratories, Inc. a letter of guidance

reminding it to timely report required information and that its registration does not allow it to distribute directly to the end-user of a product.

Barbara Bloxsom, RPH 10432

The Board reviewed an Agenda Memorandum and, after due consideration of available information, voted unanimously to refer this matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to refer the matter for discipline.

Community Health Clinic, OO 123

The Board reviewed a petition from Community Health Clinic requesting a reduction in the inspection/visitation frequency of its consultant pharmacists.

After careful consideration of the available information, the Board voted unanimously to grant the request under various conditions.

Correspondence on Internet Prescriptions

The Board reviewed correspondence from a consumer regarding the alleged use of the internet to obtain prescription drugs.

After careful consideration of the available information, the Board voted unanimously not to act on the information. However, the Board directed its staff to send correspondence informing the consumer of the appropriate state boards of pharmacies to refer the matter to if he chooses. The consumer could then decide on which documentation he chose to provide.

Denver Office of Drug Strategy Request to Continue Contract for data from Colorado's Electronic Prescription Drug Monitoring Program (PDMP)

After due consideration of available information, the Board voted unanimously to approve of the request.

Request from Dr. Steven Wright, M.D. requesting information from Colorado's Electronic Prescription Drug Monitoring Program (PDMP)

After careful consideration of available information, the Board voted unanimously to deny the request.

Correspondence from Kaiser Permanente

The Board reviewed correspondence from Kaiser Permanente regarding a calculation error which may have led to the issuance of a prescription order for a particular dosage of a drug.

After careful consideration of the available information, the Board voted unanimously to not act on the matter. However, the Board directed its staff to send a letter of guidance to the involved pharmacist recommending the importance of double checking all dosage calculations.

King Soopers / City Market Pharmacies & Prescription Order Transfers

Ms. Arceneaux recused.

The Board reviewed a returned correspondence from King Soopers / City Market Pharmacies previously requested by the Board regarding prescription order transfers.

The Board noted the information.

Correspondence from the Colorado State Board of Veterinary Medicine

The Board reviewed correspondence from the Colorado State Board of Veterinary Medicine regarding action it had taken against a veterinarian that had previously been referred by the Board.

The Board noted the information.

Correspondence from the Colorado Board of Medicine

The Board reviewed a referral regarding a pharmacist from the Colorado Board of Medicine.

After careful consideration of the available information, the Board voted unanimously to not act on the information.

Correspondence from Portland Professional Pharmacy, OSP 5749

The Board reviewed a self-report regarding a past disciplinary action Portland Professional Pharmacy had received in another state.

The Board noted the information.

Correspondence from RedPharm Drug, Inc., WHO 7206

The Board reviewed a self-report regarding a past disciplinary action RedPharm Drug, Inc. had received in another state.

The Board noted the information.

Proposed U.S. House of Representative Bill S.3397 to Allow for Take-Back and Disposal of Controlled Substances

The Board noted the information

St. Mary's Regional Cancer Center Pharmacy, PDO 507

The Board reviewed correspondence from St. Mary's Regional Cancer Center Pharmacy requesting permission to operate a prescription drug outlet pursuant to the Board Rules governing outlets located in a hospital setting.

After careful consideration of the available information, the Board voted unanimously to deny the request. No evidence could be established that the St. Mary's Regional Cancer Center is registered as a hospital with the Colorado Department of Public Health and Environment. The Board also directed its staff to send correspondence to St. Mary's Regional Cancer Center Pharmacy directing it to comply with the prescription order maintenance and drug storage requirements of a prescription drug outlet that is not in a hospital.

Request from the Colorado Pharmacists Society to Amend Board Rule 10.00.00

The Board considered a request from the Colorado Pharmacists Society to amend Board Rule 10.00.00, which would increase the number of prescription drugs and controlled substances that can be maintained in an emergency kit.

After careful consideration of the available information, the Board voted unanimously to table further consideration of this proposal pending the receipt of additional information from the Colorado Department of Public Health and Environment regarding the use of emergency kits.

EXECUTIVE SESSION

At 12:47 p.m., Board Vice President Mary Arceneaux moved that the Board enter into Executive Session.

The motion was seconded. The vote was unanimous with six votes approving the motion to go into Executive Session and none opposing.

The Board exited Executive Session at 5:30 p.m.

Open Session

Peer Assistance Services Participant Reports

The Board voted unanimously to direct its staff to send warning letters to participants of Peer Assistance Services (PAS) for their first occurrence of failing to provide PAS with timely reports as required in their PAS contracts.

PR 07-140

The Board found that the public health, safety, or welfare imperatively required emergency action and voted to summarily suspend the pharmacist license of PR 07-140 pursuant to CRS 12-22-125.2(4) should she fail to enter into an interim cessation of practice agreement with the Board within 30 business days.

PR 10-179

The Board found that the public health, safety, or welfare imperatively required emergency action and voted to summarily suspend the pharmacist license of PR 10-179 pursuant to CRS 12-22-125.2(4) should he fail to enter into an interim cessation of practice agreement with the Board within 30 business days.

Case 2010-1451

Ms. Arceneaux recused.

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Case 2010-2638

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Case 2010-4457

The Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Case 2010-4809

The Board voted unanimously to dismiss the case as being without merit. The Board did vote, however, to refer the issues raised in this matter with respect to pharmacist Calvin Tyree to the Office of the Attorney General.

Case 2010-4810

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Case 2009-3220 and Walgreen Pharmacy # 4307, PDO 7-23

The Board voted unanimously to rescind its previous referral of this case for discipline and to dismiss the case.

ADJOURNMENT

The Board adjourned at 5:35 p.m.

Jeannine G. Dickerhofe, R.Ph.
Board President

Approval Date